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EILEEN FORD-FAHERTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

EILEEN FORD-FAHERTY,

Plaintiff,

v.

WORLD ARCHERY FEDERATION,
USA ARCHERY, AND THE UNITED
STATES OLYMPIC COMMITTEE,

Defendants.

Case No. **'16CV1145 MMADHB**

**COMPLAINT FOR
PRELIMINARY INJUNCTION**

COMPLAINT IN EQUITY FOR PRELIMINARY INJUNCTIVE RELIEF

1. Plaintiff Eileen Ford-Faherty ("Plaintiff") is a resident of the County of Houston in the State of Georgia.

2. The World Archery Federation ("WAF") is the international governing body for the sport of archery, and is headquartered in Lausanne, Switzerland.

3. WAF sets the rules and regulations for international archery

1 competitions.

2 4. WAF also organizes archery competitions in the United States and
3 around the world, including the upcoming 2016 Paralympic Games in Rio De
4 Janeiro, Brazil.

5 5. USA Archery (“USAA”) is the national governing body for the
6 Olympic and Paralympic sport of archery, and is headquartered in Colorado
7 Springs, Colorado.

8 6. USAA is holding a trial event for paralympic archery on May 14, 2016
9 in Chula Vista, California.

10 7. The United States Olympic Committee (“USOC”) is the National
11 Paralympic Committee for the United States, and is headquartered in Colorado
12 Springs, Colorado.

13 8. USOC is responsible for the training, entering, and funding of U.S.
14 teams for the Paralympic Games.

15 9. This court has jurisdiction pursuant to 28 U.S.C. § 1331 because this
16 matter involves due process issues under the federal Constitution.

17 10. Venue is proper under 28 U.S.C. § 1391(b)(2) because the paralympic
18 qualifying event that gives rise to this claim is being held on May 14, 2016 in Chula
19 Vista, California.

20 11. Plaintiff suffers from a chronic, degenerative disc condition in her
21 lower back and spine, Crohn’s Disease, Ehlers-Danlos Syndrome, and
22 fibromyalgia.

23 12. These diseases cause severe pain in Plaintiff’s back, elbows, knees,
24 ankles and hips.

25 13. Plaintiff also suffers from leg numbness and partial paralysis, hand
26 weakness and numbness, severe neck impairment, and joint stiffness.

27 14. Plaintiff has undergone several major operations to deal with her
28 impairments, including three spinal fusion surgeries.

1 15. In 2005, Plaintiff underwent her first spinal fusion surgery shortly after
2 she became partially paralyzed.

3 16. In December 2011, Plaintiff underwent her second spinal fusion
4 surgery.

5 17. In December 2013, Plaintiff underwent her third spinal fusion surgery.

6 18. Due to Plaintiff's leg numbness and partial paralysis, she must use a
7 cane to walk short distances.

8 19. Plaintiff requires a wheelchair for long distances.

9 20. Beginning in 2010, Plaintiff began competing as a paralympic archer
10 in the Women's Standing Recurve event.

11 21. Since that time, Plaintiff has become one of the best female
12 paralympic archers in the United States.

13 22. In 2011, Plaintiff finished ninth at the World Championships.

14 23. Later that year, Plaintiff finished first in the Parapan American Games
15 in Guadalajara, Mexico.

16 24. In 2012, Plaintiff qualified for and competed in the Paralympic Games
17 in London, England.

18 25. In 2013, Plaintiff finished sixth in the World Archery Para
19 Championships.

20 26. In 2014, Plaintiff finished first at the Parapan American
21 Championships.

22 27. In April 2015, Plaintiff won the gold medal at the prestigious Arizona
23 Cup.

24 28. Until 2015, Plaintiff was the top-ranked woman in the Para Women
25 Recurve rankings.

26 29. Since Plaintiff began competing as a paralympic archer in 2010, she
27 has participated in several "classification sessions."

28 30. In these sessions, "examiners" from the WFA examine each

1 prospective athlete, and assign points for each impairment or disability that they
2 have.

3 31. Athletes must obtain twenty-five points to be eligible to compete in
4 paralympic events.

5 32. The WFA conducts these classification sessions under the
6 International Paralympic Committee Classification Code and International
7 Standards (“IPC Code”).

8 33. USAA and the USOC abide by the WFA’s findings.

9 34. Paralympic athletes thus cannot compete in USAA or USOC
10 competitions unless they meet the WFA’s disability standards.

11 35. In every classification session that occurred before August 2015,
12 Plaintiff was found to have a disability that met the criteria necessary to compete in
13 paralympic archery events.

14 36. On June 25, 2012, Plaintiff was declared eligible to compete in
15 paralympic archery competitions.

16 37. Approximately two years later, the WFA conducted another
17 classification session and gave Plaintiff a score of thirty-two points.

18 38. Because Plaintiff exceeded the twenty-five point threshold, the WFA
19 found that she was eligible to compete in paralympic archery competitions.

20 39. On April 6, 2015, the WFA conducted another classification session
21 and gave Plaintiff a score of thirty-three points.

22 40. Because Plaintiff exceeded the twenty-five point threshold yet again,
23 the WFA found that she was eligible to compete in paralympic archery
24 competitions.

25 41. Plaintiff was given “confirmed status” in her April 6, 2015
26 classification session.

27 42. Under the IPC Code, “confirmed status” is assigned only when a
28 classification panel determines that the athlete’s classification *will not change*.

1 43. Athletes who are assigned “confirmed status” are no longer required to
2 complete evaluations prior to competing at international competitions unless a
3 protest is lodged.

4 44. According to the IPC Code, a protest may be lodged only in
5 “exceptional circumstances.”

6 45. The IPC Code defines “exceptional circumstances” as a change in the
7 degree of impairment of an athlete, the demonstration by an athlete of significantly
8 less or greater ability prior to or during competition, an error by a prior
9 classification panel, or a change in the evaluation criteria .

10 46. Four months after she was given “confirmed status,” Plaintiff traveled
11 to Toronto, Canada for the 2015 Parapan Am Games.

12 47. Upon arriving, a member of the WAF’s classification committee, Kim-
13 Fong Pang (“Pang”), informed Plaintiff that her disabled status was being
14 challenged by the committee.

15 48. Pang told Plaintiff that her disabled status was being challenged
16 because she now wore leg braces, which Pang contended Plaintiff had not worn in
17 the past.

18 49. In fact, Plaintiff has wore these leg braces for several years, ***including***
19 ***during all three previous classification sessions.***

20 50. Plaintiff did not receive any advance notice that her disabled status
21 would be challenged at this event.

22 51. After informing Plaintiff that her classification was being challenged,
23 Pang and another classifier performed a classification examination.

24 52. Pang and the other classifier determined that Plaintiff only
25 accumulated twenty-three points, even though she had accrued thirty-three points
26 just a few months earlier.

27 53. Twenty-three points falls below the twenty-five point threshold
28 required to compete in paralympic archery competitions.

1 54. Due to this ruling, Plaintiff could no longer compete in paralympic
2 archery events.

3 55. There were no “exceptional circumstances” that justified a challenge to
4 Plaintiff’s “confirmed status” as a paralympic athlete.

5 56. Plaintiff’s medical condition did not, and could not, improve from
6 April 2015 to August 2015 because she has chronic and degenerative diseases that
7 only worsen with time.

8 57. She did not demonstrate significantly less or greater physical ability in
9 August 2015 than she did in April 2015.

10 58. The April 2015 classification did not err in its classification, especially
11 since two previous classifications panels had made the same ruling.

12 59. WAF’s criteria for classification testing standards did not change
13 between April 2015 and August 2015.

14 60. The result of the August 2015 classification was dramatically different
15 from the three previous classifications that Plaintiff underwent in 2012, 2014, and
16 April 2015.

17 61. In those three previous classifications, Plaintiff exceeded the twenty-
18 five point threshold and could compete as a paralympic athlete.

19 62. In the August 2015 classification, she fell below the twenty-five point
20 threshold and could no longer compete as a paralympic athlete even though the
21 testing criteria did not change.

22 63. This classification by WAF has been adopted by all other national and
23 international bodies, including USAA and USOC.

24 64. Plaintiff contacted the United States Olympic Committees’
25 Ombudsman Office (“the Ombudsman Office”) the same day that her classification
26 was changed.

27 65. The purpose of the Ombudsman Office is to offer free, confidential,
28 and independent advice regarding opportunities and rights to participate in

1 protected competition, and the various policies and procedures associated with
2 participating in sport at an elite level.

3 66. The Ombudsman Office told Plaintiff that she had no recourse unless
4 her medical condition worsened.

5 67. On February 24, 2016, Plaintiff submitted a new medical intake form
6 to the WAF after being diagnosed with multilevel degenerative cervical spondylosis
7 and undergoing another cervical spine fusion surgery.

8 68. Plaintiff received no response to her intake form.

9 69. On April 22, 2016, Plaintiff emailed the Head Classifier of the WAF,
10 seeking an update on her status.

11 70. Two days later, the WAF denied her request in a brief email.

12 71. Due to WAF's improper decision to compel Plaintiff to undergo a
13 reclassification examination despite her confirmed status, Plaintiff has suffered
14 severe and direct harm.

15 72. Plaintiff is now permanently barred from participating in all
16 paralympic archery competitions.

17 73. Plaintiff cannot compete in the Parapan Am Games.

18 74. Plaintiff cannot compete in the World Championships.

19 75. Plaintiff cannot compete in the Arizona Cup.

20 76. Plaintiff has lost her Team U.S.A. status, and the associated monetary
21 stipend.

22 77. Plaintiff last lost her health insurance that was paid for by the USOC.

23 78. Plaintiff has lost revenue for personal appearances as a member of
24 Team U.S.A.

25 79. Plaintiff has lost the ability to obtain other sponsorships.

26 80. Plaintiff's non-eligible status also threatens her existing sponsorships.

27 81. Plaintiff cannot compete in the 2016 Paralympic Games in Rio De
28 Janeiro, Brazil, or any of the qualifying events.

1 82. Plaintiff planned to attempt to qualify for the 2016 Paralympic Games
2 by competing in the Paralympic Archery Trials on May 14, 2016 in Chula Vista,
3 California.

4 83. Plaintiff cannot compete in the 2016 Paralympic Games unless she is
5 able to participate in the Paralympic Archery Trials on May 14, 2016 in Chula
6 Vista, California.

7 84. The unilateral decision of Pang, acting as a representative of the WAF,
8 to reclassify Plaintiff was arbitrary and capricious, especially given that she had
9 received confirmed status just a few months earlier.

10 85. The WAF's rules do not provide any means for Plaintiff to appeal its
11 decision, even though it directly and dramatically affects her status as a paralympic
12 athlete and, as a result, her employment status.

13 86. Since the improper reclassification, Plaintiff has repeatedly contacted
14 WAF, USAA, and USOC in an attempt to have her classification changed.

15 87. These requests have either been ignored or denied, most recently at the
16 end of April, 2016.

17 88. None of the Defendants' officials explained or suggested any means
18 for Plaintiff to regain her status, other than allowing her physical condition to
19 deteriorate.

20 89. Plaintiff thus believed – until very recently – that there was no possible
21 way to regain her disabled status.

22 90. WAF's arbitrary and capricious decision to revoke her disability status
23 has violated Plaintiff's constitutional rights.

24 91. In accepting WAF's arbitrary and capricious decision regarding
25 Plaintiff's disability classification, USAA and the USOC have also violated
26 Plaintiff's constitutional rights.

27
28 WHEREFORE, Plaintiff Eileen Ford-Faherty respectfully requests that this

1 court issue a preliminary injunction pursuant to Fed. R. Civ. P. 65, ordering that
2 defendants World Archery Federation, USA Archery, and the United States
3 Olympic Committee refrain from preventing her from competing in the Paralympic
4 Archery Trials on May 14, 2016 in Chula Vista, California, and allow her to
5 compete under the disability status she received in April 2015 until a final
6 determination regarding her disability status is made under the Ted Stevens
7 Olympic and Amateur Sports Act, 36 U.S.C. §220501 *et seq.*

8
9 Dated: May 12, 2016

Respectfully submitted,
Jones Day

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11
12 By: s/ Mhairi L. Whitton

13 Shireen M. Becker
14 Mhairi L. Whitton
Michael F. Gosling

15 Counsel for Plaintiff
EILEEN FORD-FAHERTY
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